

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT DEANDRE WILLIAMS,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security,

Defendant.

C12-1938 TSZ

ORDER

Having reviewed the memoranda of the parties, the Report and Recommendation of United States Magistrate Judge Mary Alice Theiler, the Plaintiff's objections thereto, and the Commissioner's response, it is now ORDERED:

1) The Court ADOPTS the Report and Recommendation of Judge Theiler, docket no. 19, with the following clarification:

Plaintiff objects to the Report and Recommendation (R&R), arguing that Brewes v. Comm'r of SSA, 682 F.3d 1157 (9th Cir. 2012), supports a different methodology for assessing new evidence than applied in R&R. This objection is without merit.

In Brewes, the Ninth Circuit expressly adopted the approach for reviewing new evidence applied in Ramirez v. Shalala. Id. at 1163 (citing Ramirez, 8 F.3d 1449 (9th Cir. 1993)). "Following Ramirez, we have routinely considered evidence submitted for the first time to the Appeals Council to determine whether, *in light of the record as a whole, the ALJ's decision is supported by substantial evidence.*" Id. (emphasis added) (citing Ramirez, 8 F.3d 1449 (9th Cir. 1993)). Plaintiff's argument that Brewes requires the Court to ask whether a reasonable ALJ could reach a different opinion in light of the new evidence is not supported by Brewes. Rather, Brewes supports the inquiry adopted

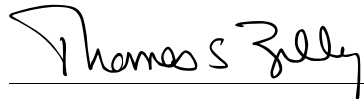
1 by the R&R: “[W]hether—in light of all the evidence of record, including the new
evidence—the ALJ’s decision is supported by substantial evidence.” R&R at 8.

2 The R&R properly reflects the holding of Brews that the administrative record
before this Court includes materials submitted for the first time to the Appeals Council.
3 Id. The R&R also correctly identifies and applies the legal standard for reviewing the
denial of benefits to the record in this case.

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2) The Court AFFIRMS the decision of the Commissioner.

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3) The Clerk is DIRECTED to send copies of this Order to all counsel of
6 record and to Judge Theiler.

7 Dated this 8th day of July, 2013.

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10 THOMAS S. ZILLY
United States District Judge